April 6, 2004

Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Ave., NW
Washington, DC 20551
Docket N0. R-1181

Communications Division
Public Information Room
Office of the Comptroller of the Currency
250 E Street, SW, Mail Stop 1-5
Attention Docket 04-06
Washington, DC 20219

Robert E. Feldman
Executive Secretary
Att: Comments
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429
Re: 12 CFR 345

Information Collection Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552

Dear Ladies and Gentlemen:

The following comments are provided on behalf of Comerica Incorporated, a $53 billion bank holding company with branch locations in the states of Michigan, California, Texas, Florida and Arizona.

Comerica is committed to the communities in which it operates and as such is committed to fulfilling the letter and spirit of the Community Reinvestment Act (CRA) as well as those acts which regulate fair lending practices such as: the Equal Credit Opportunity Act, Fair Housing Act, Real Estate Settlement Procedures Act, Truth in Lending Act and the Home Ownership and Equity Protection Act. As indicated in our comment later related to the Advance Notice of Proposed Rulemaking, it is Comerica's opinion that there should be minimal changes to the CRA regulations. It is in that spirit that we provide the following comments regarding the Joint Notice of Proposed Rulemaking - CRA.

§ Sec. 228.12 Definitions

(t) Small bank means a bank that, as of December 31 of either of the prior two calendar years, had total assets of less than $500 million.

Comments: Comerica supports the proposal to raise the small institution asset threshold to $500 million, without reference to holding company assets.

§ Sec. 228.28 Assigned ratings

(c) Effect of evidence of discriminatory, other illegal and abusive credit practices. (1) The Board's evaluation of a bank's CRA performance is adversely affected by evidence of the following in any geography or in any assessment area by any affiliate whose loans have been considered pursuant to Sec. 228.22 (c):

(i) In connection with any type of lending activity described in Sec. 228.22(a), discriminatory or other illegal practices including, but not limited to:

(A) Discrimination against applicants on a prohibited basis in violation, for example, of the Equal Credit Opportunity Act or the Fair Housing Act;

(B) Violations of the Home Ownership and Equity Protection Act;

(C) Violations of section 5 of the Federal Trade Commission Act;

(D) Violations of section 8 of the Real Estate Settlement Procedures Act; and '

(E) violations of the Truth in Lending Act provisions regarding a consumer's right of rescission.

(ii) In connection with home mortgage and secured consumer loans, a pattern or practice of lending based predominantly on the foreclosure or liquidation value of the collateral by the bank, where the borrower cannot be expected to be able to make the payments required under the terms of the loan.

(2) In determining the effect of evidence of practices described in paragraph (c) (1) of this section on the bank's assigned rating, the Board considers the nature, extent, and strength of the evidence of the practices; the policies and procedures that the bank (or affiliate, as applicable) has in place to prevent the practices; any corrective action that the bank (or affiliate, applicable) has taken or has committed to take, including voluntary corrective action resulting from self-assessment; and any other relevant information.

Comments: We question the need to formally list the violations that will adversely affect a bank's CRA performance. It is well established that these issues will adversely affect a bank's CRA performance in today's world. By formally listing these issues we question if this brings another examination review by the CRA examination team on a subject matter "Fair Lending" which they may not be fully trained. Since the proposal does not cite any meaningful problems with the present impact of findings from the compliance examination team we question the need to formalize the issue. Increasing regulatory burden on the CRA covered portion of the industry without any true benefit for the community may result in resources being used that would be put to better use in benefitting the overall community.

It should also be noted, that abusive credit terms and practices should not be regulated through CRA because Congress enacted other laws for that purpose. We assume the proposal does not urge the elimination of these other laws and regulations at this time.

Finally, we would question how such a change increases the likelihood of stopping abusive credit terms being offered by a non-CRA regulated credit provider. This is the provider who closes shop and reappears without regulatory scrutiny. This is the question that needs to be addressed rather than how to further regulate a portion of the industry that is sufficiently covered by the present regulatory structure.

Also with regard to the following items of discussion noted in the supplemental information:

- <u>Loan Purchases and Originations</u> - Comerica supports the proposal to distinguish loan purchases from loan originations in the public evaluation. Loan purchases require as much time and consideration by financial institutions as loan originations. Additionally, loan purchases provide much needed capital. Additionally, we also support the agencies' recommendation to continue to weigh loan purchases and loan originations in the same manner in their evaluation of a financial institution's CRA performance.

- <u>Credit Terms and Practices</u> - Comerica does not support changing the regulation to mandate that non-depository affiliate lending activity be incorporated into a financial institution's CRA evaluation. The regulation currently provides that non-depository affiliate lending activity may be considered in an financial institution's performance evaluation at the option of the financial institution. To mandate that affiliate lending activity be included in the CRA evaluation process exceeds the scope of the regulation.

  Again the issue is how do the regulators deal with non-CRA regulated credit providers rather than those legitimate affiliates of CRA regulated credit providers. The fact remains that establishing examples of certain violations, equity stripping or in or outside of assessment areas does not address the true issue of dealing with non-CRA regulated credit providers.

  The issue is not the lack of regulations but rather than lack of equal application of existing regulation among all credit providers. It is naive to think that the portion of the industry that is not subject to CRA regulation will magically address credit abuses by increasing CRA regulation of credit abuses.

- <u>Enhancement of Public Performance Evaluations</u> - Comerica supports the proposed changes to the Public Performance Evaluations to include the **number** of purchased loans, HOEPA loans and of loans for which rate spread information is reported under HMDA and affiliate loans.

§ Sec.228.42 Data collection, reporting and disclosure

(h) CRA Disclosure Statement

Comments: Comerica supports the proposal to revise the Disclosure Statement to include the **number** and amount of small business and small farm loans by census tract (vs. the aggregation of this data by census tract) for each of the data categories noted in the regulation.

In closing, Comerica applauds the agencies efforts to provide opportunities for review and comment of the CRA regulation. However, in Comerica's opinion, there should be minimal changes to the CRA regulations for those presently CRA regulated institutions. It has taken a number of years for the financial institutions and the regulatory agencies to fine tune the last regulatory changes. We believe that applying the regulatory foundation of CRA regulated institutions to the presently non CRA regulated institution will provide the best method of dealing with the credit abuses that exist. Until this issue is addressed the credit abuses will continue at an alarming level. Therefore, it would be preferable to maintain the current regulation for those presently covered, with some modest changes, in order to effectively implement the regulation as well as to monitor its success.

Sincerely,

Kathryn A. Reid
First Vice President
Corporate CRA Manager

Sincerely,

Carl E. Spradlin, Jr.
First Vice President
Corporate Consumer Compliance Manager